

REMARKS

Claims 1-7 and 9-14 are pending in this application. Claims 1-4, 13 and 14 are withdrawn from consideration as being drawn to a non-elected species. By this Amendment, claims 5, 9 and 11 are amended. No new matter is added by these amendments.

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The Office Action rejects claims 5-7 and 9-12 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,106,965 to Hirano in view of U.S. Patent No. 6,007,933 to Jones and U.S. Patent No. 3,158,510 to Gerhardt. Applicants respectfully traverse these rejections.

The Office Action asserts the applied references either individually, or in combination, teach, or would have suggested, all the features recited in independent claims 5, 9 and 11. However, the applied references do not teach, nor would have suggested, a method of manufacturing a fuel cell including at least "the porous carbon supporting member having a particle diameter in the range of 1 to 5 μm ," as recited in amended claims 9 and 11 and similarly in amended claim 5.

The Office Action concedes that Hirano does not teach nonmetallic supporting members and relies on Jones and Gerhardt to overcome this deficiency. The Office Action asserts that Jones, in col. 1, line 62 - col. 2, line 14; col. 3, lines 5-10; and col. 7, lines 6-20, teaches different portions of a fuel cell can be made with porous carbon material. Jones teaches that the flow field plates and gas diffusion layers are made of carbon, and specifically teaches that the support members can comprise, for example, an extended metal, and an etched metal. However, Jones does not teach that the support members are porous carbon. Therefore, Jones does not teach, nor would have suggested, "the porous carbon supporting member having a

particle diameter in the range of 1 to 5 μm ," as recited in claims 9 and 11 and similarly in claim 5.

Further, the Office Action asserts that Gerhardt, in col. 1, lines 11-14, teaches a method for making a rigid porous carbon body suitable as a support of a matrix in the form of a fuel cell electrode. However, Gerhardt does not teach "the porous carbon supporting member having a particle diameter in the range of 1 to 5 μm ," as recited in claims 9 and 11 and similarly in claim 5. Instead, Gerhardt, in paragraph [0062] teaches the particle size of 40-50 μm .

Hirano fails to disclose or suggest the above features and therefore fails to make up for the above noted deficiencies of Jones and Gerhardt.

For at least the reasons above, the applied references cannot reasonably be considered to teach, nor would have suggested, all the features recited in at least independent claims 5, 9 and 11. Further, claims 6, 7, 10 and 12-14 would also not have been suggested by the applied references for at least the respective dependency of these claims on allowable claims 5, 9 and 11, respectively, as well as for the separately patentable subject matter that each of these claims recites.

The Office Action provisionally rejects claims 5, 9 and 11 for non-statutory obviousness type double patenting over claim 1 of copending U.S. Application No. 10/791,719 and claim 2 of copending U.S. Application No. 10/791,722. Applicants acknowledge the Office Action's notice of a potential double patenting rejection.

Accordingly, reconsideration and withdrawal of the rejections of claims 5-7 and 9-12 under 35 U.S.C. §103(a) are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-7 and 9-14 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



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